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11 Attorneys for Plaintiff

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 STAR FABRICS, INC., a California
15 Corporation,

16 Plaintiff,

17 v.

18 DESE ENTERPRISE, INC., dba AMI
19 CLUBWEAR, a California Corporation;
20 10DOLLARMALL, LLC, a California
21 Limited Liability Company; and DOES 1
22 through 10,

23 Defendants.

Case No.: CV 15-8152-GW (PJWx)
Hon. George H. Wu Presiding

PLAINTIFF'S FIRST AMENDED
COMPLAINT FOR COPYRIGHT
INFRINGEMENT

Jury Trial Demanded

24 Star Fabrics, Inc., by and through its undersigned attorneys, hereby prays to
25 this honorable Court for relief based on the following:

26 **JURISDICTION AND VENUE**

27 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
28 *et seq.*

1 8. Plaintiff is informed and believes and thereon alleges that at all times
 2 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
 3 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
 4 at all times acting within the scope of such agency, affiliation, alter-ego relationship
 5 and/or employment; and actively participated in or subsequently ratified and/or
 6 adopted each of the acts or conduct alleged.

7
 8 **CLAIMS RELATED TO DESIGN NO. 65934**

9 9. Plaintiff owns an original two-dimensional artwork used for purposes of
 10 textile printing entitled 65934 (“Subject Design”) which has been registered with the
 11 United States Copyright Office.

12 10. Prior to the acts complained of herein, Plaintiff widely disseminated fabric
 13 bearing Subject Design to numerous parties in the fashion and apparel industries.

14 11. Plaintiff is informed and believes and thereon alleges that following its
 15 distribution of Subject Design, AMI, 10DOLLARMALL, DOE Defendants, and
 16 each of them distributed and/or sold fabric and/or garments featuring a design which
 17 is substantially similar to Subject Design (hereinafter “Subject Product”) without
 18 Plaintiff’s authorization, including but not limited to products sold by:

- 19 a. AMI under UPC 1250148 and bearing the label Love Sweet USA,
 20 indicating that it was manufactured by or for Love Sweet USA.
 21 b. 10DOLLARMALL under SKU LD2011 and bearing the label Love
 22 Sweet USA, indicating that it was manufactured by or for Love
 23 Sweet USA.

24 12. An image of Subject Design and an exemplar of Subject Product are set
 25 forth hereinbelow:

26 ///

27 ///

Subject Design



Subject Product



FIRST CLAIM FOR RELIEF

(For Copyright Infringement - Against All Defendants, and Each)

13. Plaintiff repeats, realleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.

14. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to Subject Design, including, without limitation, through (a) access to Plaintiff's showroom and/or design library; (b) access to illegally distributed copies of Subject Design by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) access to garments in the marketplace manufactured with lawfully printed fabric bearing Subject Design.

15. Plaintiff is informed and believes and thereon alleges that one or more of the Defendants manufactures garments and/or is a garment vendor. Plaintiff is

1 further informed and believes and thereon alleges that said Defendant(s), and each of
2 them, has an ongoing business relationship with Defendant retailers, and each of
3 them, and supplied garments to said retailers, which garments infringed Subject
4 Design in that said garments were composed of fabric which featured unauthorized
5 print designs that were identical or substantially similar to Subject Design, or were
6 an illegal modification thereof.

7 16. Plaintiff is informed and believes and thereon alleges that Defendants, and
8 each of them, infringed Plaintiff's copyright by creating, making and/or developing
9 directly infringing and/or derivative works from Subject Design and by producing,
10 distributing and/or selling Subject Products through a nationwide network of retail
11 stores, catalogues, and through on-line websites.

12 17. Due to Defendants', and each of their, acts of infringement, Plaintiff has
13 suffered damages in an amount to be established at trial.

14 18. Due to Defendants', and each of their, acts of copyright infringement as
15 alleged herein, Defendants, and each of them, have obtained profits they would not
16 otherwise have realized but for their infringement of Subject Design. As such,
17 Plaintiff is entitled to disgorgement of Defendants', and each of their, profits
18 attributable to the infringement of Subject Design in an amount to be established at
19 trial.

20 19. Plaintiff is informed and believes and thereon alleges that Defendants, and
21 each of them, have committed copyright infringement with actual or constructive
22 knowledge of Plaintiff's rights such that said acts of copyright infringement were,
23 and continue to be, willful, intentional and malicious.

24 **PRAYER FOR RELIEF**

25 Wherefore, Plaintiff prays for judgment as follows:

- 26 a. That Defendants—each of them—and their respective agents and
27 servants be enjoined from importing, manufacturing, distributing,

1 offering for sale, selling or otherwise trafficking in any product that
2 infringes Plaintiff's copyrights in Subject Design;

- 3 b. That Plaintiff be awarded all profits of Defendants, and each of them,
4 plus all losses of Plaintiff, the exact sum to be proven at the time of trial,
5 or, if elected before final judgment, statutory damages as available under
6 the Copyright Act, 17 U.S.C. § 101 et seq.;
- 7 c. That Plaintiff be awarded its attorneys' fees as available under the
8 Copyright Act U.S.C. § 101 et seq.;
- 9 d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 10 e. That Plaintiff be awarded the costs of this action; and
- 11 f. That Plaintiff be awarded such further legal and equitable relief as the
12 Court deems proper.

13
14 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
15 38 and the 7th Amendment to the United States Constitution.

16 Dated: November 10, 2015

DONIGER/BURROUGHS

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18 By: /s/ Stephen M. Doniger
19 Stephen M. Doniger, Esq.
20 Howard S. Han, Esq.
21 Attorneys for Plaintiff
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